



Public Notice

U.S. Army Corps Of Engineers Galveston District	Permit Application No: _____	SWG-2011-01123
	Date Issued: _____	2 May 2012
	Comments Due: _____	4 June 2012

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

PURPOSE OF PUBLIC NOTICE: To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. The U.S. Army Corps of Engineers (Corps) is not the entity proposing or performing the proposed work, nor has the Corps taken a position, in favor or against the proposed work.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

APPLICANT: TGS Development
11811 East Freeway, Suite 630
Houston, Texas 77029-1952
POC: Gary Mixon

AGENT: Lanier and Associates Consulting Engineers, Inc.
595 Orleans Street, Suite 600
Beaumont, Texas 77701-3227
Telephone: 409-212-1051
POC: David Cowart

LOCATION: The project site is located in the Port Arthur Canal, at 2500 Martin Luther King Drive, in Port Arthur, Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port Arthur South, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.822500 North; **Longitude:** -93.955556 West

PROJECT DESCRIPTION: The applicant proposes to construct and dredge a 27.60-acre barge docking facility and pipeline. The applicant proposes to mechanically and hydraulically dredge the berth to a uniform depth of -40 feet below mean low water, plus a 2-foot over dredge for advance maintenance. The receiving body of water is authorized to be dredged to -40 feet below mean low water. The applicant proposes to construct a 1,160-foot-long walkway, with an 80-foot x 100-foot platform at its center, and 8 breasting dolphins. A 1,600-linear-foot revetment wall is also proposed around the interior of the basin.

The applicant also proposes to construct a 36-inch diameter, 3.1-mile pipeline, extending from the proposed basin to a location just west of West 7th Street in Port Arthur. The pipeline route will parallel the levee for Dredge Material Placement Area (DMPA) 8. The pipeline will turn 90 degrees at Highway 82, at which point the line will be directionally drilled. The pipe string work area for the drill is proposed to extend over the DMPA 8 levee, into DMPA 8. The proposed project will impact 3.989 acres of wetlands, via conversion of wetland types, will permanently impact 0.01 acre of wetlands, and will temporarily impact 8.57 acres of wetlands.

MITIGATION: The applicant states that they believe compensatory mitigation should not be required because permanent impacts are minor, resulting from construction of pipeline support structures, and that impacted wetlands are dominated by invasive or non-native species. The applicant considers the removal of invasive species as adequate mitigation, which will reduce the effects of conversion impacts to a minimal level. The estuarine emergent wetland (Wetland 7) is believed by the applicant to have minimal functions. Dredging will convert the wetland to open water and would not result in a loss of Section 10 waters.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by using an abandoned dock facility to minimize dredge activities and minimize the volume of material to be placed into a DMPA. The originally preferred tank farm was redesigned to avoid wetlands, the originally preferred above ground pipe rack system was relocated and rerouted. The pipeline was routed to avoid impacts to higher functioning forested wetlands, and the temporary construction right-of-way was reduced from an average of 100 feet wide to 70 feet wide.

CURRENT SITE CONDITIONS: The project site is currently a developed tract of land, adjacent to an existing boat basin. The site is bounded to the east and north by a DMPA, and to the west by the Port Arthur Ship Channel. The opposite shoreline of the Channel is developed with industrial facilities. Tidal wetlands exist along the shoreline of the proposed basin. Palustrine emergent, palustrine forested, and palustrine scrub/shrub wetlands exist along the pipeline route.

This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. The applicant's plans are enclosed in 36 sheets.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS: Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said program.

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

The return water from the upland contained dredged material placement area(s) requires authorization under Nationwide Permit (NWP) 16. However, the Southwestern Division of the Corps administratively denied NWP 16, without prejudice, during the 2002 renewal of the NWP Program. Additionally, Section 401 water quality certification for the 2007 renewal of the NWP Program has not been issued. Therefore, individual Section 401 water quality certification from Texas Commission on Environmental Quality (TCEQ) for the return water from the upland contained disposal area is required. Prior to the performance of hydraulic dredging, the applicant will obtain a Clean Water Act Section 401 water quality certification from the TCEQ for the effluent or return water. A copy of the 401 certification must also be furnished to the Corps district office listing in this public notice prior to performing hydraulic dredging.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist has/has not reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

The proposed work and/or structures are of such limited nature and scope that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or Federally-managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: The purpose of a public hearing is to solicit additional information to assist in the evaluation of the proposed project. Prior to the close of the comment period, any person may make a written request for a public hearing, setting forth the particular reasons for the request. The District Engineer will determine if the reasons identified for holding a public hearing are sufficient to warrant that a public hearing be held. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **4 June 2012**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should be submitted to:

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